

USSN: 09/932,523  
Atty. Docket No.: 2001B078  
Response dated July 28, 2004  
Reply to Non-Final OA mailed May 4, 2004

### REMARKS/ARGUMENTS

Further consideration of the subject application in light of the remarks which follow and consistent with 37 C.F.R. 1.111 is hereby respectfully requested. Claims 23-36, 38 and 39 are pending, wherein claims 23-36, 38 and 39 are subject to a rejection under 35 U.S.C. § 103 (a).

### RESPONSE TO REJECTION UNDER 35 U.S.C. § 103 (a)

In one embodiment Applicant's have disclosed a multi-layer film comprising a core layer and a skin layer. In this embodiment, the core layer comprises a polylactic acid and a toughening additive. The skin layer comprises a polylactic acid. This multi-layer film is suitable for use in sleeve labels and advantageously has at least some of the following properties: good bonding and shrinking characteristics, good optical and mechanical properties, and is sealable.

Claims 23-26, 30-31 and 33-35 have been rejected as being unpatentable over U.S. Patent 5,833,199 ("McCarthy") in light of U.S. Patent 6,262,182 ("Kanamori"). With regard to claims 23-24, 25-26, and 30-31 the Examiner contends that while McCarthy fails to disclose a toughening additive encompassed by the Applicants claims, Kanamori can be combined with McCarthy to suggest the use of polybutylenesuccinate carbonate as a toughening additive.

Applicant's respectfully disagree. However, in the interest of furthering prosecution, Applicants have amended claim 23 to delete the reference to polybutylenesuccinate carbonate, without prejudice. With regard to claims 30-31, Applicants respectfully disagree that it would have been obvious to one of ordinary skill in the art to use a thickness of 3 mils in view of McCarthy's disclosure of a film having a thickness of 12 mils. Applicants, however, respectfully submit that this point of contention is moot in light of the amendment to claim 23. Accordingly, Applicants respectfully request the Examiner withdraw the rejection to claims 23-24, 25-26, and 30-31.

With regard to claims 33-35 the Examiner contends that because McCarthy discloses a laminate of polylactic acid and paper, McCarthy has therefore disclosed a second layer comprising a skin layer. McCarthy's film-laminated paper structure (at col. 7, lines 37-55 of

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McCarthy) is a two-layer structure comprising a "film" layer that contains polylactic acid and a "paper" layer that does not contain polylactic acid. That is, McCarthy's film laminated with paper contains polylactic acid in only one layer. Applicants therefore submit that McCarthy does not teach or suggest a core layer comprising polylactic acid in combination with a first skin layer also comprising polylactic acid. Accordingly, Applicants respectfully request the Examiner withdraw the rejection to claims 33-35.

Claims 27 and 36 and 38-39 have been rejected as being unpatentable over U.S. Patent 5,833,199 ("McCarthy") in view of U.S. Patent 6,262,182 ("Kanamori") and further in view of U.S. Patent 5,866,634 ("Tokushige").

With respect to the rejection of claim 27 Applicants respectfully submit the amendment to claim 23 renders this rejection moot.

With regard to the rejection of claim 36 and 38-39 the Examiner contends that while McCarthy and Kanamori fail to suggest applying these films as sleeves to bottles, Tokushige teaches the use of a film comprising polylactic acid as a packaging material or label for application to bottles.

However, Applicants respectfully assert that neither McCarthy, Kanamori, nor Tokushige disclose the presence of polylactic acid in the first and second skin layers. Therefore, the combination of McCarthy, Kanamori, and Tokushige does not fairly suggest Applicant's invention. Accordingly, Applicants respectfully request the Examiner withdraw the rejection to claims 36 and 38-39.

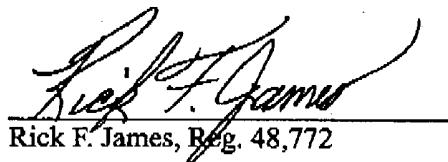
Claims 28-29 and 32 have been rejected as being unpatentable over U.S. Patent 5,833,199 ("McCarthy") in view of U.S. Patent 6,262,182 ("Kanamori") and U.S. Patent 5,866,634 ("Tokushige") and further in view of U.S. Patent 5,766,748 ("Ikado").

Applicants respectfully submit that the amendment to claim 23 renders this rejection moot because claims 28-29 and 32 depend from amended claim 23. Accordingly, Applicants respectfully request the Examiner withdraw the rejection to claims 28-29 and 32.

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Accordingly, it is respectfully submitted that the claims are in condition for allowance and favorable action thereon is requested.

Respectfully submitted,



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